

Remarks

The Examiner has rejected claims 1-12 under 35 U.S.C. §102 as being unpatentable over U.S. Patent No. 5,817,114 to Anderson et al. ("Anderson"). Based on the foregoing Amendments and following Remarks, Applicant's invention is patentable over the cited art.

Claims 1, 8, and 12, all of the independent claims, relate to a tongue device adapted to be pressed against a top surface of a user's mouth and require the following elements: an elongated member having a handle portion and a head portion, the head portion being in contact with the top surface of the user's mouth, wherein the head portion is pressed against the top surface with the tongue to conform the head portion to the shape of it, wherein the handle portion is of a deformable material for deforming around a user's teeth, and wherein said head portion has a periphery which is sized and shaped to fit within the roof of a user's mouth (support may be found in paragraph 27 of Applicant's specification).

Anderson's invention does not fit within a periphery of a roof of a user's mouth because Anderson's invention is required to be engaged with the user's teeth to prevent forward and rearward movement of the tongue cleaner while in use (see col. 4, lines 1-5) by having a support member 12 stick out beyond the roof's periphery in order to engage the teeth. All embodiments and all claims of Anderson require a support member and the support member is described to have a recess 18 for receiving teeth, such as a full set of teeth (col. 2, lines 40-45) or a single tooth (col. 4, lines 1-5). No

matter what embodiment Anderson uses, a support member is required and the support member must have a recess for engaging teeth, which means the support member (as shown in figures 1-3, 5-8) must extend beyond a roof's periphery. Since all embodiments of Anderson require a support member to engage with a user's teeth, this feature is critical and any modification which does not include the teeth engaging recess is expressly against the teachings of Anderson.

Applicant further submits that Anderson is not combinable with the previous art of record, namely U.S. Patent No. 3,070,102 to MacDonald ("MacDonald") or U.S. Patent No. 5,678,273 to Porcelli ("Porcelli") because both MacDonald and Porcelli relate to a toothbrush that adheres to a user's finger and, therefore, both inventions would not consider a teeth engaging recess.

For a combination of references to be properly combined in a rejection under 35 U.S.C. §103, there must be some teaching or suggestion in the cited art or in the knowledge generally available to one of ordinary skill in the art to make the combination. "To establish a prima facie case of obviousness, three basic criteria *must* be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, ...to combine the reference teachings." MPEP §706.02(j) (emphasis added).

There is no teaching or suggestion in MacDonald or Porcelli to have a recess for engaging a user's teeth since both references require the invention to be adhered to a user's finger, rendering any recess for engaging teeth useless. Similarly, there is no

teaching or suggestion in Anderson to be adhered to a user's finger, as an adhesive would be useless in Anderson's invention as it would serve a duplicative purpose as the teeth engaging recess. It further would not be obvious to combine Anderson with MacDonald or Porcelli because Anderson, which relates to an invention that extends beyond the periphery of a roof of a mouth to engage with the teeth to hold the tongue cleaner in place, would not further require an adhesive to also hold the tongue cleaner in place. Similarly, MacDonald or Porcelli, which relates to an invention that is adhered to a finger to hold the tongue cleaner in place, would not require a teeth engaging recess to also hold the tongue cleaner in place.

Therefore, because Anderson lacks any express or implied teaching or suggestion to be combined with MacDonald or Porcelli, and because combining the references is not obvious to one skilled in the art since a combination would lead to duplicative results, Applicants' invention is not obvious in view of the references.

Moreover, it is important to note that although Applicant's handle portion is flexible to allow the handle portion to conform to the shape of the front teeth or gums, this is for allowing the head portion, which head portion has a periphery that is sized and shaped to fit within the roof of a user's mouth, to be pressed against the roof of the mouth without interference thereby. See paragraph 27 of Applicant's specification. Hence, the handle portion does not and cannot engage with a user's teeth, as required by Anderson, due to the handle portion's flexibility for allowing the head portion to be pressed against the roof of the mouth without interference.

By the foregoing Remarks and Amendments, Applicant respectfully submits that
all pending claims are in order for allowance.

Respectfully submitted,



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Version of Amended Claims Showing Changes Made:

1. (Thrice Amended) A tongue cleaning device adapted to be pressed against a top surface of a user's mouth, comprising:

an elongated member integrally formed of a flexible material, said elongated member having a handle portion and a head portion;

said head portion in contact with the top surface; and

a cleaning portion attached to the head portion of said elongated member, said cleaning portion comprising a plurality of cleaning projections protruding outwardly from the head portion of said elongated member;

wherein said head portion of said elongated member is pressed with the tongue against the top surface to conform the head portion to the shape thereof; [and]

wherein said handle portion is of a deformable material for deforming around a user's teeth[.]; and

wherein said head portion has a periphery which is sized and shaped to fit within the roof of a user's mouth.

8. (Thrice Amended) A tongue cleaning device adapted to be pressed against a top surface of a user's mouth, comprising:

an elongated member integrally formed of a thin, flexible plastic material, said elongated member having a handle portion and a head portion;

said head portion in contact with the top surface; and

a cleaning portion comprising a backing material having an adhesive on a first surface thereof adhered to the head portion of said elongated member, and having a plurality of fiber loops protruding from a second surface thereof;

wherein said head portion of said elongated member is pressed with the tongue against the top surface to conform the head portion to the shape thereof; [and]

wherein said handle portion is of a deformable material for deforming around a user's teeth[.]; and

wherein said head portion has a periphery which is sized and shaped to fit within the roof of a user's mouth.

12. (Thrice Amended) A tongue cleaning device adapted to be pressed against a top surface of a user's mouth, comprising:

an elongated member integrally formed of a thin, flexible plastic material, said elongated member having a handle portion and a head portion, the head portion having a width greater than a width of the handle portion;

said head portion in contact with the top surface; and

a cleaning portion attached to the head portion of said elongated member, said cleaning portion comprising a loop portion of a hook-and-loop fastening system; and

an antiseptic or antimicrobial compound carried in said cleaning portion;

wherein said head portion of said elongated member is pressed with the tongue against the top surface to conform the head portion to the shape thereof; [and]

wherein said handle portion is of a deformable material for deforming around a user's teeth[.]; and

wherein said head portion has a periphery which is sized and shaped to fit within the roof of a user's mouth.